

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

77-1435

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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UNITED STATES OF AMERICA, :

Appellee, :

- against - :

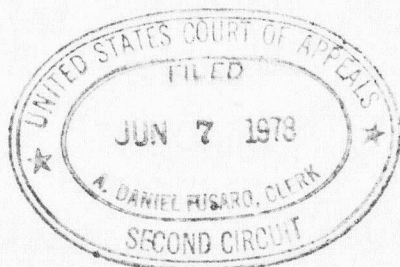
LAVANNE ELAINE HAMMOND and :
MILLCENT JONES, :

Appellants. :

-----x

APPENDIX FOR APPELLANT LAVANNE ELAINE HAMMOND

ON APPEAL FROM A JUDGMENT
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



Richard E. Rieder, Esq.
Attorney for Appellant
LAVANNE ELAINE HAMMOND
161 East 42nd Street
New York, New York 10017
(212) 682-8811

B
P/S

PAGINATION AS IN ORIGINAL COPY

Exhibit A

Consp. to viol. Fed. Marco. L. S.

RAIL • RELEASE

5/4/77

☐ Status Change
(See Checklist)

SENTENCE

ARREST or		INDICTMENT		ARRAIGNMENT		TRIAL		SENTENCE	
U.S. Custody Began	High Risk Date	Information ☐		1st Plea	Trial Set For	Voir Dire ☐	Disposition of Charges		
*5/4/77		5-20-77			9-19-77		9-29-77		
Summons Served	Indict. Waived ☐			5-26-77	☒ NG ☐ G ☐ NOL	Trial Began ☒	☒ Convicted		☒ On All Charges
First Appearance	In Charging District	Superseding ☐ Indict/Info ☐		Final Plea	☐ G. Plea ☐ N/Drawn	9-26-77 ☐	☐ Acquitted		☐ On Lesser Offense(s)
					☐ NG ☐ G ☐ NOL	Trial Ended 9-29-77	☐ Dismissed:		☐ WCP: ☐ W
							☐ On Government's Motion		

MAGISTRATE		DATE	INITIAL NO	INITIAL APPEARANCE DATE	INITIAL NO	OUTCOME
SEARCHED	INDEXED	5/4/77	KS-08AK	5/4/77	KS08AK	ISSUED
SERIALIZED	FILED			5/23/77		HELD FOR G. OR OTHER PROCEEDING IN DISTRICT
☐ REMOVAL HEARING ☐ WAIVED ☒ NOT WAIVED ☐ INTERVENING PROCEEDMENT		Type Number		HELD FOR G. OR OTHER PROCEEDING IN DISTRICT		
OFFENSE		21 USC 812, 841(a)(1), 841(b)(1)(A) and 846 - NARCOTICS				

to S Agency or Asst.

ATTORNEYS

artin B. McNamara
11-0071 743

HAMMOND

- 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1677, 1678, 1679, 1680, 1681, 16

5/4/77 Complaint filed, represented by Gilbert Epstein, 100 Church St.,
N.Y. Defendant released on bail, address: 1372 Washington Ave.,
Ex., N.Y.

15-20-77 INDICTMENT FILED, 77 CR 386

5-26-77 Deft. present (no atty. present). Court directs a not guilty plea be entered. Bail \$5,000 PRB continued, with PSA supervision. Deft. referred to Magistrate for assignment of counsel. Case assigned to Motley, J. for all purposes.
.....Owen, J.

6-7-77 P/T CONF. HELD & CONCLUDED. Trial date set for
to 9-10-77, 10AM. Bail as to BOTH DEFTS CONT'D. MOTLEY, J

6-17-77 Filed CJA 23 financial affdvt...

12-12-77 Deft (Atty. Leonard Joy Pres.) Application for new counsel
DENIED. MOTLEY, J

3-6-7-77 E-1

26-77 Jury trial begun.....Motley, J.
 27-77 Trial cont d.
 28-77 Trial cont d.
 29-77 Trial cont d. and concluded...Deft found Guilty..P.S.I. ordered
 Sent. 11-4-77....
 0-11-77 Filed defts proposed questions for voir dire..
 1-11-77 Filed defts requests to charge.
 1-23-77 filed notice of appeal from judgment dated 11-15-77..Copy to
 U.S.Atty. and deft at 1372 Washington Ave.Bronx,n.Y.10456
 Apt.5A ...Leave to proceed in forma pauperis hereby granted...
 Motley, J.....

A TRUE COPY
 RAYMOND E. BURCHARDT, Clerk
 BY *R. L. [Signature]*
 Deputy Clerk

FINE AND PENALTY PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

Exhibit B

USA-88s- 510 - IND./INF. (Conspiracy to distribute and possess with
Rev. 6-27-72 intent to distribute narcotic drug.)

M:er

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

77 CRIM. 0386

UNITED STATES OF AMERICA,

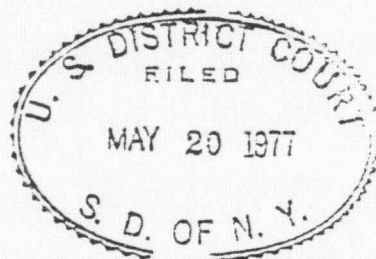
- v -

LAVANNE ELAINE HAMMOND and
MILLCENT JONES,

Defendants .

INDICTMENT

77 cr.



MICROFILM

1. From on or about the 1st day of January, 1977 and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York,

LAVANNE ELAINE HAMMOND and
MILLICENT JONES,

known and the defendant s and others to the Grand Jury/unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendant unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I narcotic drug controlled substances the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

MAY 20 1977

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York:

1. On or about April 14, 1977, LAVANNE ELAINE HAMMOND and MILLICENT JONES, the defendants, had a conversation at Apartment 5a, 1372 Washington Avenue, Bronx, New York, concerning the sale of one eighth kilogram of heroin to another for \$7,000.00;

2. On or about April 15, 1977, MILLICENT JONES, the defendant, had a conversation with another at Apartment 5A, 1372 Washington Avenue, Bronx, New York, concerning the sale of one ounce of heroin.

3. On or about April 18, 1977, MILLICENT JONES, the defendant, had a telephone conversation with another.

4. On or about April 27, 1977, MILLICENT JONES, the defendant, received \$7,000 from another at Apartment 5A, 1372 Washington Avenue, Bronx, New York for one eighth kilogram of heroin.

(Title 21, United States Code, Section 846.)

James L. Jones
FOREMAN

Robert B. Fiske, Jr.
ROBERT B. FISKE, JR.,
United States Attorney.

Exhibit C

3pm
/29/77

HPjw 1

591

CHARGE OF THE COURT

Judge Motley

THE CLERK: The Court is about to charge the jury. Any spectator wishing to leave the courtroom should do so now. Otherwise you may remain seated until the completed charge.

Will the marshal please lock the door.

THE COURT: Ladies and gentlemen, first of all I want to thank you for your patience and for your cooperation in being prompt and for the careful attention which you have paid to the testimony and other evidence as it has been introduced in this case.

Now, I hope that you will bear with me now and give me that same degree of attention that you have given throughout the trial so that you may carefully understand the legal principles which you are to apply to the facts in this case as you find them.

Now, first of all, as you approach the performance of your function in this case which is to determine the guilt or innocence of each of these defendants separately, please remember that it is your duty to weigh the evidence calmly and dispassionately without sympathy or prejudice for or against either

defendant or against the government.

You must bear in mind that every defendant appearing before this Court is entitled to a fair and impartial trial regardless of his occupation or station in life.

We have to bear in mind the fact the government is a party here, that the prosecution is brought in the name of the United States of American entitles it to no greater consideration than that which is accorded to any other litigant in a lawsuit.

Also you have to bear in mind that the government is entitled to no less consideration, and that is because under our system all parties, both individuals and government alike stand equal before the law.

You are not to assume that I have any opinion as to the guilt or innocence of either of these defendants or as to the truth or falsity of any of the charges against them.

The fact that I have denied motions or granted motions in the course of the trial is not to be taken by you as any indication that the Court believes the defendants are guilty or not guilty. And that is because these motions and other rulings which I have made have to do with questions of law and not with questions of

1 hpjw 3

2 fact which are within the exclusive province of the
3 jury.

4 Now, if during the course of the trial a
5 question was asked and an objection interposed and I
6 sustained the objection, you are to disregard the question
7 and any alleged facts contained in the questions.
8 Similarly, if I ruled that an answer be stricken from the
9 record you are to disregard both the question and the
10 answer.

11 My function is to instruct you as to the
12 law and you should accept the law as I state it to you
13 in these instructions and apply it to the facts as you
14 find them.

15 Now, the logical result of that is a verdict
16 in the case which must be, as I said before, returned
17 separately as to each defendant.

18 Now, I want to caution you that you are
19 not to single out any one instruction alone as stating
20 the law but must consider these instructions as a whole.

21 In this indictment there is a single
22 count or charge, as we say, and your verdict again as to
23 this charge, which is conspiracy to violate the federal
24 narcotics statutes must be based solely on the evidence
25 presented in court. Once again, the evidence consists

1 of the testimony which you heard from the witness stand
2 and the exhibits which have actually been received in
3 evidence.
4

5 Your verdict as to each defendant must
6 be unanimous. It must be either guilty or not guilty
7 and again must be returned separately as to each
8 defendant.

9 Once again with respect to any matter of
10 fact, it is your recollection and yours alone which
11 governs. Anything that counsel for the government or
12 counsel for the defendant may have said with respect
13 to any matter in evidence, that is, any factual matter,
14 whether stated in a question, in summation or in argu-
15 ment is not to be substituted for your own independent
16 recollection of what the evidence in this case is.

17 So, too, anything which I may have said
18 during the course of the trial is not evidence.

19 Now, you as jurors are the sole and
20 exclusive judges of the facts. This means that you pass
21 on the weight of the evidence. You determine the
22 credibility, that is, the believability of the witnesses.
23 You resolve such conflicts as there may be in the
24 evidence and you draw such reasonable inferences as may
25 be warranted by the evidence in the case, that is, the

testimony and the exhibits.

The fact that I may refer to some of the testimony, even some of the exhibits during the course of these instructions, does not mean that I think that is the only evidence or the most important evidence in deciding the guilt or innocence of these defendants. You must decide all the testimony, that is, all the testimony both direct and cross examination and all the exhibits which have been received in evidence, and you should consider the contentions of the parties.

As I told you, you are the sole judges of the credibility of the witnesses and the weight their testimony deserves. You know, of course, there is no automatic way to decide who is telling the truth and who is not. Credibility can be equated with believability and reliability. If a witness is credible you say he is believable. If he is incredible, you say he is unbelievable. There is nothing mysterious about these words or this task.

Now, by what yardstick are you to judge the credibility of the witnesses;

Each of you has observed the witnesses. They testified right here before you so you could see them, hear them and observe their demeanor and manner

1 hpjw 6

2 while on the witness stand. Issues of fact are presented
3 for your determination and to a large extent the
4 resolution of the disputed issues of fact depends upon
5 the credibility which you as the jurors attribute to the
6 testimony of various witnesses and the support or lack
7 of support that their testimony received from the other
8 evidence in the case.

9 Your duty is to decide the disputed
10 issues of fact. In doing so use your logic, your reason
11 and your common sense and do not be sidetracked or
12 diverted or distracted by what you consider to be a
13 minor or insignificant detail or irrelevancy or by what
14 you consider to be not an appeal to your reason or logic
15 but to mere sentimentality or unthinking passion. I
16 repeat, use your common sense.

17 You should carefully scrutinize all the
18 testimony given, as I have said, both direct and cross
19 examination, the circumstances under which the witness
20 has testified and every matter in evidence which tend
21 to show that a witness is worthy of belief. Consider
22 each witness' intelligence, motive and state of mind
23 and demeanor and manner while on the witness stand.

24 Consider the witness' ability to observe
25 the matters as to which he has testified and whether he

1 hpjw 7

2 or she impresses you as having an accurate recollection
3 of these matters.

4 Consider also any relation a witness may
5 bear to either side of the case and the extent to which,
6 if at all, each witness is either supported or contra-
7 dicted by other evidence in the case.

8 Now, inconsistencies or discrepancies in
9 the testimony of a witness or between the testimony of
10 different witnesses may or may not cause a jury to dis-
11 credit such testimony. Two or more persons witnessing
12 an incident or transaction may see or hear it differently
13 and as we all know, innocent recollection like failure
14 of recollection is not an uncommon experience.

15 Now, in weighing the fact of a discrepancy
16 always consider whether it pertains to a matter of
17 importance or an unimportant detail and whether the
18 discrepancy comes from innocent error or intentional
19 falsehood.

20 In determining credibility and weight to
21 be given to the testimony of a witness, you must judge
22 the testimony of the government employee witnesses in
23 this case the same way in which you judge the testimony
24 of any other witness. The mere fact that they are
25 employees of the government, as I said earlier, entitles

1
2 them to no more and no less consideration than that
3 accorded to any other witness.

4 Nor should you be influenced by the number
5 of witnesses or the number of documents received in
6 evidence. It is the quality of the testimony and other
7 evidence which counts, not the quantity.

8 After making your own judgment, you will
9 give the testimony of each witness such credibility, if
10 any, as you think it deserves. If you find that any
11 witness has wilfully testified falsely as to any
12 material matter, you may reject the entire testimony of
13 that witness or you may accept such part or portion as
14 commends itself to your belief, or what you find
15 corroborated by other testimony or other evidence in
16 the case.

17 Now, neither defendant in this case has
18 taken the witness stand and testified. The fact that
19 a defendant who has a right to do so has not taken the
20 stand and testified in this case does not create any
21 presumption against any defendant.

22 It cannot be considered by you as any
23 evidence against either defendant or a basis for any
24 inference unfavorable to either of them. You must not
25 permit such fact to weigh in the slightest degree

1 hpjw 9

2 against the defendants nor should it even enter into
3 your deliberations.

4 As stated before, the law never imposes
5 upon a defendant in a criminal case the burden or duty
6 of calling any witnesses or producing any evidence.
7 The defendant in a criminal case is not called upon to
8 prove his innocence since the burden is on the govern-
9 ment to prove that the accused is guilty beyond a reason-
10 able doubt as to every essential element of the crime
11 charged.

12 The defendant has a right to rely upon the
13 failure of the prosecution to establish such proof. A
14 defendant may also rely upon evidence brought out on
15 cross examination of government witnesses. The law does
16 not impose upon a defendant the duty of producing any
17 witnesses.

18 You should not speculate during your
19 deliberations as to why a defendant did not testify.
20 You may not draw any inference whatsoever from the
21 defendant's failure to take the stand.

22 The fact that there may have been other
23 persons involved in the crime charged in this indictment
24 who have not been indicted and who are not on trial is
25 simply irrelevant in determining the guilt or innocence

1 hpjw 10

2 of the two persons who are now on trial.

3 Your job is to focus on the evidence
4 adduced here as to each defendant who is now on trial
5 and to determine whether a particular defendant who is
6 now on trial is either guilty or not guilty of the
7 charge made against her, which is the charge of con-
8 spiracy to violate the federal narcotics laws.

9 In short, the guilt or innocence of each
10 defendant on trial must be determined separately and must
11 be based solely on the evidence or the lack of evidence
12 presented as to her involvement in the crime charged
13 even though there is also evidence regarding the involve-
14 ment of others.

15 And before you can find any defendant on
16 trial guilty as to the charge made against her, you
17 must be persuaded of her guilt by the evidence of her
18 personal involvement beyond a reasonable doubt.

19 Now, as you well know, each defendant has
20 pleaded not guilty to the charge. Consequently, as I
21 have told you repeatedly now, if a defendant is to be
22 convicted, the government has the burden of proving that
23 the defendant is guilty as charged beyond a reasonable
24 doubt.

25 Now, that is a burden that never shifts.

1 hpjw 11

2 It remains upon the government throughout the entire
3 trial.

4 As I told you before, a defendant does not
5 have to prove his or her innocence. On the contrary,
6 a defendant is presumed to be innocent of the accusation
7 contained in the indictment. This presumption of
8 innocence was in the defendants favor at the start of
9 the trial and continues in their favor throughout the
10 trial and is in their favor even as I instruct you now.
11 This presumption of innocence remains in their favor
12 even during the course of your deliberations in the jury
13 room.

14 Now, this presumption of innocence is
15 removed only if and when after your deliberations in the
16 jury room you come to the conclusion the government has
17 sustained its burden of proof, and that is, the government
18 has proved the particular defendant you are then consider-
19 ing guilty beyond a reasonable doubt.

20 Now, the question that naturally comes up
21 is, what is a reasonable doubt. The words almost define
22 themselves.

23 Reasonable doubt is a doubt founded in
24 reason and arising out of the evidence of the case or the
25 lack of evidence. It is a doubt which a reasonable person

1 hpjw 12

2 has after carefully weighing all the evidence, the kind
3 of doubt which would make one hesitate to act. It means
4 a doubt that is substantial and not merely shadowy.
5 Reasonable doubt is one which appeals to your reason,
6 your judgment, your common sense and your experiences
7 in life. It is not caprice,whim or speculation. It is
8 not an excuse to avoid the performance of an unpleasant
9 duty. It is not sympathy for a defendant.

10 If after fair and impartial consideration
11 of all the evidence you can candidly and honestly say
12 that you are not satisfied of the guilt of a particular
13 defendant, you do not have an abiding conviction as to
14 that particular defendant's guilt, such a conviction as
15 you would be willing to act upon unhesitatingly in
16 important and weighty matters in personal affairs of your
17 own life, then you have a reasonable doubt, and in that
18 circumstance it is your duty to acquit that particular
19 defendants.

20 On the other hand, if after such a fair
21 and impartial consideration of all the evidence you can
22 candidly and honestly say that you are satisfied of the
23 guilt of a particular defendant, that you do have an
24 abiding conviction as to that defendant's guilt, such a
25 conviction as you would be willing to act upon unhesitatingly

1 hpjw 13

2 in important and weighty matters in the personal
3 affairs of your own life, then you have no reasonable
4 doubt, and in that circumstance you may convict the
5 defendant.

6 Now, a reasonable doubt does not mean a
7 positive certainty beyond all possible doubt, and that
8 is because it is practically impossible for a person to
9 be absolutely and completely convinced of any contra-
10 verted fact which by its nature is not susceptible to
11 mathematical certainty.

12 In consequence, the law in a criminal
13 case is that it is sufficient if the guilt of a defendant
14 has been established beyond a reasonable doubt and not
15 beyond all possible doubt.

16 In order to convict a defendant in a criminal
17 case of any charge, you must find beyond a reasonable
18 doubt that the defendant acted unlawfully, wilfully and
19 knowingly.

20 Now, unlawful obviously means contrary to
21 law. An act is done knowingly if it is done voluntarily
22 and purposely, and not because of mistake, accident, mere
23 negligence or other mere innocent reason.

24 An act is done wilfully if it is done
25 knowingly, deliberately, intentionally and with an evil

1 hpjw 14

2 motive or purpose.

3 Now, in determining whether a defendant has
4 acted wilfully, it is not necessary for the government
5 to establish that a defendant knew that he or she was
6 breaking any particular law or any particular rule. It
7 must, however, prove a bad purpose or motive on the part
8 of a defendant.

9 Knowledge and wilfully an intent of a
10 defendant need not be proved by direct evidence. Like
11 any other fact in dispute, it may be established by
12 circumstantial evidence.

13 Now, there are two classes of evidence
14 recognized and admitted in courts of justice upon either
15 of which you may find an accused guilty of a crime.
16 One is called direct evidence, the other is called
17 circumstantial evidence.

18 Direct evidence tends to show the fact
19 in dispute without need for any other amplification.
20 Although of course there is always the question whether
21 that evidence is to be believed.

22 Circumstantial evidence, on the other
23 hand, tends to show other facts from which the jury may
24 infer by a process of reasoning the facts sought to be
25 established.

1 hpjw 15

2 In other words, it is that evidence which
3 tends to prove a fact in issue by proof of other facts
4 which have a legitimate tendency to lead the mind to
5 infer that the facts sought to be proved are true.

6 It is not necessary that a defendant's
7 participation in a crime be shown by direct evidence.
8 A defendant's connection to a crime charged may be
9 inferred from such facts and circumstances in evidence
10 as would legitimately tend to support such an inference.

11 Questions concerning a defendant's knowledge
12 and wilfulness and intent involve proof of a defendant's
13 state of mind at the time of the alleged crime.

14 Now, it is obviously impossible to prove
15 directly the operation of a defendant's mind because
16 you cannot look into a person's mind and see what his or
17 her intentions are or were.

18 But the proof of the circumstances surround-
19 ing a defendant's activities may well supply an adequate
20 and convincing basis for finding that the defendant
21 acted knowingly and wilfully and intentionally as charged.

22 In other words, the actions of a defendant
23 must be judged in their time and place, just as the
24 full meaning of the word is commonly understood only in
25 its relation to other words in a sentence or in its

1 hpjw 16
2 context.

3 So, the meaning of a particular act or
4 conduct on the part of a defendant may depend on the
5 circumstances surrounding that act or conduct.

6 In determining the issue of knowledge,
7 wilfulness and intent, you are entitled to consider any
8 statements made by a defendant which are in evidence
9 and any acts done by the accused which are in evidence
10 and all other facts and circumstances in evidence which
11 may aid you in determining a defendant's state of mind.

12 You consider such things as the age, back-
13 ground, occupation and experience of a defendant, and
14 whether such facts make it likely or unlikely, probable
15 or improbable that a defendant fully and precisely
16 understood what he or she was doing in regard to a trans-
17 action and were relevant in relation to others.

18 Now, as I told you when you were being
19 selected and before the trial commenced, an indictment
20 is not proof or evidence. It is merely a charge or an
21 accusation. An indictment is the technique or method
22 or procedure which we employ in our judicial system and
23 whereby persons are accused by a grand jury of a crime.
24 These persons are then brought into court where their
25 guilt or innocence is then determined by a trial jury such

1 hpjw 17

2 as you are.

3 Therefore, the indictment has no evidentiary
4 value. It should not be considered by you as proving
5 or tending to prove any of the crimes charged, and that
6 is because the government has the burden of proving each
7 charge which has been made in an indictment beyond a
8 reasonable doubt.

9 Now, since each defendant has entered a
10 plea of not guilty to the charge made in this indictment,
11 the defendant has put into issue the essential elements
12 of the crime of conspiracy.

13 The government has the burden of proof
14 proving beyond a reasonable doubt, to your satisfaction,
15 the precise charge which means it must prove each and
16 every element of that crime of conspiracy before a
17 defendant can be found guilty of that crime.

18 If, in your view, the government has failed
19 to prove any one of the elements of the crime of conspiracy
20 as to a particular defendant, then you must acquit that
21 defendant.

22 Therefore, I shall now read the charge in
23 the indictment. I shall then set forth specifically
24 each element of the crime charged which the government
25 must have proved to your satisfaction beyond a reasonable

1 hpjw 18

2 doubt before you can find a particular defendant guilty
3 of that charge.

4 The indictment reads as follows:

5 "From on or about the 1st day of January,
6 1977, and continuously thereafter, up to and including
7 the date of the filing of this indictment" which was
8 May 20, 1977, "in the Southern District of New York"
9 and that includes the Bronx, "Lavanne Elaine Hammond and
10 Millicent Jones, the defendants, and others to the grand
11 jury known and unknown, unlawfully, intentionally and
12 knowingly combined, conspired, confederated and agreed
13 together and with each other to violate Sections 812,
14 841-A-1, and 841-B-1, Title 21, United States Code.

15 "It was part of said conspiracy that the
16 said defendant unlawfully, intentionally and knowingly
17 would distribute and possess with intent to distribute
18 Schedule I narcotic drug controlled substances, the
19 exact amount thereof being to the grand jury unknown,
20 in violation of Sections 812, 841-A-1 and 841-B-1, of
21 Title 21, United States Code.

22 "In pursuance of the said conspiracy and
23 to effect the objects thereof, the following overt
24 acts were committed in the Southern District of New York.

25 "1. On or about April 14, 1971,

1 hpjw 19

2 Lavanne Elaine Hammon* and Millicent Jones, the defendants,
3 had a conversation in Apartment 5-A, 1372 Washington
4 Avenue, Bronx, New York, concerning the sale of one-eighth
5 kilogram of heroin to another for \$7,000.

6 "2. On or about April 15, 1977,
7 Millicent Jones, the defendant, had a conversation with
8 another at Apartment 5-A, 1372 Washington Avenue, Bronx,
9 New York, concerning the sale of one ounce of heroin.

10 "3. On or about April 18, 1977,
11 Millicent Jones, the defendant, had a telephone conver-
12 sation with another.

13 "4. On or about April 27, 1977,
14 Millicent Jones, the defendant, received \$7,000 from
15 another at Apartment 5-A, 1372 Washington Avenue, Bronx,
16 New York, for one-eighth kilogram of heroin."

17 Now, what is a conspiracy?

18 A conspiracy is a collective criminal agree-
19 ment, a partnership in crime. A conspiracy presents a
20 greater potential threat to government and society than
21 acts committed by a lone wrongdoer. Concerted action
22 for criminal purposes often, if not normally, makes
23 possible the attainment of ends more complex than those
24 of an individual acting alone to accomplish.

25 Moreover, a group association increases the

hpjw 20

610

likelihood that the criminal objective will be successfully realized and renders detection more difficult than in the instance of the lone wrongdoer.

It is because of these and other reasons that Congress has made conspiracy or concerted action to violate the federal law a separate and entirely distinct crime, that is, separate and distinct from the substantive crime which may be the objective of the conspiracy.

Now, in order to prove the crime of conspiracy which is alleged here, you must find that the government has established beyond a reasonable doubt each of the following four essential elements of the crime of conspiracy:

First. The existence of conspiracy.

Second. That it was a purpose of the conspiracy as alleged in the indictment to violate federal statutes regulating the sale and distribution of narcotic controlled substances.

Third. That the defendant knowingly and wilfully became a participant in or a member of the conspiracy.

Fourth. That at least one of the co-conspirators knowingly committed at least one of the overt

611
1 hpjw 21

2 acts set forth in the indictment in furtherance of the
3 conspiracy and during the period of conspiracy alleged
4 in the indictment.

5 Now, those are the four essential elements
6 of the crime of conspiracy. And now I am going to
7 discuss each one of those four elements in greater
8 detail.

9 As I said before, a conspiracy is a
10 combination or an agreement of two or more persons by
11 concerted action to accomplish a criminal or unlawful
12 purpose or some purpose not in itself criminal or
13 unlawful by criminal or unlawful means.

14 The gist of the crime of conspiracy is the
15 unlawful combination or agreement to accomplish one or
16 more of the unlawful objectives alleged. Whether or not
17 the defendants accomplish what is alleged they conspired
18 to do, that is, whether or not they actually achieve the
19 unlawful goals alleged, is immaterial to the question of
20 guilt or innocence.

21 A conspiracy has sometimes been called a
22 partnership in crime in which each member becomes the
23 agent of every other member.

24 To establish a conspiracy, the government
25 is not required to show that two or more persons sat

1 hpjw 22

2 around a table and entered into a solemn compact orally
3 or in writing stating that they have formed a conspiracy
4 to violate the law setting forth the details of the plan,
5 the means by which the unlawful project is to be carried
6 out or the part to be played by each co-conspirator.

7 Indeed, it would be extraordinary if there
8 were such a formal agreement or specific oral agreement.
9 Your common sense will tell you that when persons in
10 fact undertake to enter into a criminal conspiracy,
11 much is left to unexpressed understanding. Conspirators
12 do not usually reduce their agreements to writing or
13 acknowledge them before a notary public, nor do they
14 publicly broadcast their plans.

15 From its very nature, a conspiracy is
16 almost invariably secret in its origins and execution.
17 Therefore, it is sufficient if you find that two or
18 more persons in any manner through any contrivance
19 impliedly or tacidly come to a common understanding to
20 violate the law.

21 Express language or specific words are
22 not required to indicate a consent or attachment to a
23 conspiracy nor is it required to find that all the co-
24 conspirators alleged in the indictment joined in the
25 conspiracy in order to find that a conspiracy existed.

1 hpjw 23

2 You need only find that one alleged co-
3 conspirator or a defendant entered into an unlawful
4 agreement with one or more persons in order to find
5 that a conspiracy existed.

6 In determining whether there has been an
7 unlawful agreement, you may judge the acts and conduct
8 of the alleged co-conspirators which are done to carry
9 out an apparent criminal purpose.

10 The old adage actions speak louder than
11 words is applicable here.

12 Usually the only evidence of a conspiracy
13 is that of disconnected acts which, however, when taken
14 together in connection with each other, show a conspiracy
15 to secure a particular result as satisfactorily and as
16 conclusively as more direct proof.

17 Proof concerning the accomplishment of the
18 objective of the conspiracy may be the most persuasive
19 evidence of the existence of the conspiracy itself.
20 If you believe it was successful may be the best proof
21 of the existence of the agreement.

22 In this connection, however, it is not
23 necessary for the government to prove the success of the
24 conspiracy in order to establish a violation of the
25 conspiracy statute.

1 hpjw 24

2 As a conspiracy is basically the agreement
3 to violate the law, it may exist even though the final
4 objective is never accomplished.

5 In determining whether the conspiracy
6 of in this indictment actually existed, you may
7 consider evidence of the acts and conduct of the
8 alleged conspirators as a whole and the reasonable
9 inferences to be drawn from such evidence.

10 If, upon consideration of the evidence,
11 you find beyond a reasonable doubt that the minds of at
12 least two of the alleged co-conspirators met in an
13 understanding way, and that they agreed as I have just
14 explained a conspiratorial agreement to you, to work
15 together in furtherance of the unlawful scheme alleged
16 in the indictment, then proof of the existence of the
17 conspiracy, but only of its existence, is complete.

18 Now, as to the second element of the
19 conspiracy. But before I go to that, I want to make
20 one further point about the existence of a conspiracy
21 which you must find.

22 While the period of time charged in the
23 indictment runs from in or about January 1st of this year
24 to the date of filing of the indictment which is May 20th
25 of this year, it is not necessary for the government to

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prove the conspiracy started and ended on those specific dates. It is sufficient if you find that a conspiracy was formed and that it existed for some substantial time within the period set forth in the indictment and that at least one overt act was committed during that period.

An overt act, if you find it occurred, need not have occurred on a specific date set forth in the indictment. You need only find that it occurred no earlier than January 1st of this year and no later than May 20th of this year.

A conspiracy continues for as long as the evidence shows the conspirators intended it to continue. Such intention may be inferred from the activities of the conspirators in furtherance of any of the unlawful purposes of the conspiracy.

Now, coming to the second element, the unlawful purpose of the conspiracy. After you find that a conspiracy existed, if you so find, you must then find as the indictment charges, that the conspiracy had as its objectives the violation of Sections 812, 841-A-1 and 841-B-1(a) of Title 21, United States Code.

Now, these federal statutes which I have just cited make it a crime to distribute or possess with

616
1 hpjw 26

2 intent to distribute a narcotic drug controlled substance
3 except as authorized by law.

4 The government must prove this second
5 element of the crime of conspiracy, that is, it must
6 prove that it was a purpose of the conspiracy either to
7 distribute a narcotic drug controlled substance or to
8 possess with intent to distribute a narcotic drug
9 controlled substance or both without any lawful authority
10 for doing so.

11 Now we come to the third element.

12 The third element which you must find is
13 that the particular defendant who you are then considering
14 knowingly and wilfully became a member of the conspiracy.
15 If you conclude that a conspiracy as charged existed
16 and that its purpose was to violate the federal narcotics
17 laws to which I have just referred, you must next deter-
18 mine whether the defendant you are considering was a
19 member of the conspiracy. That is, whether she participated
20 in the conspiracy with knowledge of its unlawful purposes
21 and in furtherance of its unlawful objectives.

22 A defendant's participation in a conspiracy,
23 like its existence, can be inferred from such facts and
24 circumstances in evidence as would logistically sustain
25 that inference.

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I want to caution you, however, that mere association of one defendant with an alleged conspirator or conspirators does not establish her membership or participation in the conspiracy, if you find that one did exist. So, too, mere knowledge by a defendant of the conspiracy or any illegal act on the part of an alleged co-conspirator is not sufficient evidence to establish membership in the conspiracy.

You must find, as I have said, actual knowing participation by the particular defendant in the agreement to violate the law. Again, an act is done knowingly if it is done voluntarily and purposefully and not because of mistake, accident, mere negligence or other innocent reasons. An act is done wilfully if it is done knowingly and deliberately and with an evil motive of purpose.

Again, in determining whether a defendant has acted wilfully, it is not necessary for the government to establish that the defendant knew that she was breaking a particular law or any particular rule. It must, however, prove that defendant had an evil motive or bad purpose in mind.

Now, even if one conspirator joined the conspiracy after it was formed and was engaged in it to

1 hpjw 28

2 a degree more limited than that of other co-conspirators,
3 she is equally culpable so long that you find that
4 she was a co-conspirator. In other words, it is not
5 required that a person be a member of the conspiracy from
6 its very start. He or she may join it at any point
7 during its progress and be held responsible for all
8 that has been said or done in furtherance of the conspiracy
9 before he or she joined and that may be done or said in
10 furtherance thereof during the existence of the conspiracy
11 and while he or she remains a member.

12 Simply stated and using the partnership
13 analogy, by becoming a partner he or she assumes all the
14 liabilities of a partnership including those which
15 occurred before he or she became a member.

16 It is not required the government show
17 that a conspirator knew all the other members of the
18 conspiracy and a conspiracy once formed is presumed to
19 have continued until its objective was accomplished or
20 some affirmative act or determination by its members.

21 Once you are satisfied beyond a reasonable
22 doubt a conspiracy as alleged existed and that either or
23 both defendants were members of it, any acts or declara-
24 tions of any other person whom you find is also a member
25 of the conspiracy, done or made during its pendency and

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in furtherance of its objectives are considered the acts and declarations of all other members even though the particular defendant was not present at the time or did not know such statements were made or such acts were done by others in furtherance of the conspiracy.

In other words, every co-conspirator is fully responsible for what every other co-conspirator does in furtherance of the conspiracy whether he knows about it or not and whether he specifically approves of it or not.

Now we come to the fourth and final element of the crime of conspiracy.

The offense of conspiracy is complete only when the unlawful agreement is made and any single overt act to effect the object of the conspiracy is thereafter committed by at least one of the co-conspirators.

An overt act is any step, action or conduct which is taken to achieve, accomplish or further the objective of the conspiracy.

Now, the purpose of requiring proof of an overt act is that while parties may conspire and agree to violate the law or to do an unlawful thing, they may change their minds or even abandon the project and do nothing to carry it into effect, in which event it

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1 hpjw 30

2 would not be an offense.

3 Now, the prosecution is not required to
4 set forth in the indictment each and every act on which
5 it relies to establish the existence of the conspiracy
6 or the defendants' participation therein, nor is it
7 required to prove each overt act which may have occurred
8 during and in furtherance of the conspiracy.

9 But, it is required to prove that at least
10 one overt act did take place here in the Southern
11 District of New York, which as I said, includes the
12 Bronx.

13 Now, the overt act may not be criminal in
14 itself. It may for instance consist of meetings of the
15 defendant and the co-conspirators. The overt act,
16 however, must be an act which follows and tends toward
17 the accomplishment of the plan or scheme charged in the
18 conspiracy and must be knowingly done in furtherance of
19 the objective of the conspiracy.

20 In sum, if you find existence of a conspiracy
21 as charged, that the purpose of the conspiracy was to
22 violate the laws as I mentioned previously, and if you
23 also find knowing participation in that conspiracy
24 by the particular defendant you are then considering,
25 you may find the defendant guilty if you find that the

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government has proved beyond a reasonable doubt that at least one overt act as alleged in the indictment occurred here in the Southern District of New York, as alleged in the indictment.

Now, if you find that the government has failed to prove any one of the four elements of the crime of conspiracy which I have just enumerated and discussed for you as to a particular defendant beyond a reasonable doubt, then you must find that defendant not guilty of the charge of conspiracy.

On the other hand, if you find that the government has sustained its burden of proving each and every one of the four elements of the crime of conspiracy which I have just enumerated and discussed as to a particular defendant beyond a reasonable doubt, then you may convict that defendant.

Now, the jury is not to consider or in any way to speculate about the punishment which a defendant may receive if found guilty. That is because the function of a jury is to determine the guilt or innocence of a defendant on the basis of the evidence and the Court's instructions as to the law. It is then for the Court alone that has the duty of determining sentence if there is a conviction.

622
1 hpjw 32

2 Therefore, you should not during the
3 course of your deliberations discuss any possible punish-
4 ment.

5 Now, the most important part of this case,
6 ladies and gentlemen, is the part which you now as jurors
7 are about to play because it is for you and you alone
8 to decide whether a defendant is guilty or not guilty
9 as to the charge made in this indictment.

10 I know that you will try the disputed
11 facts which have been presented to you according to the
12 oath which you have taken as jurors.

13 Now, in that oath you promised that you
14 would well and truly try the issues joined in this case
15 and a true verdict render.

16 Now, I suggest to you if you follow that
17 oath and try the issues, without combining your thinking
18 with any emotions, you will arrive at a true and just
19 verdict.

20 It must be clear to you that once you get
21 into an emotional state and let fear or prejudice or
22 bias or sympathy interfere with your thinking, then
23 you will not arrive at a true and just verdict.

24 And, as you deliberate, ladies and gentlemen,
25 please be careful to listen to the opinions of other

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1 jpjw 33

2 jurors as well as to ask for an opportunity to express
3 your own views.

4 Now, I want to remind you that no one
5 juror holds the center stage in the jury room and no one
6 juror may control or monopolize the deliberations.

7 Now, if after listening to your fellow
8 jurors and if after stating your own view you become
9 convinced your view is wrong, do not hesitate because of
10 stubbornness or pride of opinion to change your view.

11 On the other hand, do not surrender your
12 honest conviction solely because of the opinion of your
13 fellow jurors or because you are outnumbered.

14 You may send for any of the exhibits you
15 desire to see, or have any of the testimony read back.
16 You are instructed that you are not to reveal the standing
17 of the jurors, that is, the split of the vote for any
18 verdict to anyone, including the Court, during the time
19 of your deliberations, if that should occur.

20 Now, I have already read and discussed the
21 indictment for you and you will recall in substance the
22 indictment charges that the two defendants conspired
23 with each other and with others both known and unknown
24 to violate the federal narcotics laws.

25 That means that if you find beyond a reasonable

624

1 hpjw 34

2 doubt that only one of the defendants on trial conspired
3 with someone who is not a named defendant and is
4 therefore not now on trial, that defendant would still
5 be guilty of conspiracy even though you find the other
6 defendant was not involved in that conspiracy.

7 Another way of looking at this is that if
8 you find that one of the defendants didn't conspire
9 with anyone, but that the other defendant did conspire
10 with a non-defendant, then you must find the non-conspiring
11 defendant not guilty of conspiracy.

12 Thus, you may find each defendant guilt
13 as to the charge of conspiracy. You may find each defend-
14 ant not guilty as to the charge of conspiracy. Or,
15 you may find one defendant guilty and the other defendant
16 not guilty of the charge of conspiracy.

17 Your verdict as to each defendant must
18 be returned separately, as I have said, and your verdict
19 as to each defendant must be unanimous and must result
20 from the conscientious conviction of each and every one
21 of you.

22 Will the lawyers in the case please approach
23 the bench.

24 (In the robing room)

25 THE COURT: Mr. Joy, do you have any

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2 exceptions to the charge?

3 MR. JOY: Your Honor, I understood your
4 Honor to say that you would give my Request No. 2 and
5 I have to confess that I didn't hear you give that
6 unless I missed something.

7 THE COURT: I think in discussing the second
8 element of the crime, and let me go over that again, of
9 conspiracy, that reads as follows:

10 The indictment charges that the conspiracy
11 had as its objective the violation of Section 812,
12 841-A-1 and 841-B-1-(a) of Title 21, United States Code.
13 These federal statutes make it a crime to distribute or
14 possess with intent to distribute a narcotic drug
15 controlled substance except as authorized by law. The
16 government must prove the second element of the crime of
17 conspiracy, that is, it must prove that it was a purpose
18 of the conspiracy either to distribute a narcotic drug
19 controlled substance or to possess with intent to
20 distribute a narcotic drug controlled substance or both
21 without any lawful authority for doing so.

22 MR. JOY: I think you have covered it
23 substantially.

24 THE COURT: Anything else?

25 MR. BROWN: No, your Honor.

626
1 hpjw 36

2 MS. GOLD: Nothing, Judge.

3 (In open court)

4 THE COURT: At this time I believe we
5 will excuse the alternate juror.

6 (The alternate juror was excused)

7 THE COURT: I will ask the clerk to
8 swear the marshal.

9 (A marshal was duly sworn)

10 THE COURT: Would the marshal please
11 approach the bench.

12 (Pause)

13 THE COURT: The jurors may follow the
14 marshal to the jury room.

15 (Jury left the courtroom)

16 THE COURT: I will ask the lawyers to
17 remain on this floor in the event that the jurors
18 should send for any of the exhibits or want the testimony
19 read back.

20 I have suggested to the marshal that they
21 make arrangements now to take them to dinner at 7:00
22 o'clock in the event they have not returned with a verdict
23 and that they arrange to have limousines to take them
24 home at 10:30 if they haven't reached a verdict at that
25 time and then we will continue tomorrow morning.



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cbwc 1

Franciosa - direct

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THE COURT: Is he in the witness room?

MS. GOLD: Yes, your Honor.

GERALD FRANCIOSA, called as a witness by
the plaintiff, being first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MS. GOLD:

Q Would you tell the Court and jury how you are
employed.

A Department of Justice, Drug Enforcement Administra-
tion.

Q For how long have you been so employed?

A Eight years.

Q In what capacity?

A Special agent.

Q I direct your attention to April 14 of this year.
Were you working on that date?

A Yes, I was.

Q Tell us what happened at around 6 o'clock that
evening.

A On April 14?

Q On April 14.

A I met with an individual by the name of Connie, a
male individual by the name of Connie.

Exhibit D

1 cbwc 2

Franciosa - direct

2 Q Can you tell the Court and jury who Connie is?

3 MR. BROWN: Objection, your Honor.

4 THE COURT: What is your objection?

5 MR. BROWN: To who Connie is.

6 THE COURT: Overruled.

7 A Connie is a special employee with the Department of
8 Justice, an informant.

9 Q What happened at that time?

10 A I met with Connie, and Connie placed several phone
11 calls to a telephone number in the Bronx.

12 Q Could you see what telephone number was dialed?

13 A Yes, I did.

14 Q Could you tell the Court and jury what telephone
15 number that was?

16 A It was a 212-681-4968.

17 THE COURT: Please keep your voice up so all the
18 jurors can hear you.

19 Q What happened after the telephone calls?

20 A He placed the calls and made arrangements for me to
21 meet someone in the Bronx.

22 Q What did you do after that?

23 A I proceeded with Connie and Special Agent Robert
24 Palumbo to 1372 Washington Avenue in the Bronx.

25 Q What happened when you arrived?

1 cbwc 3

Franciosa - direct

2 A We went by car, and I got out of the car with
3 Connie, and we proceeded into the building 1372 Washington
4 Avenue and went to Apartment 5A.

5 Q And Agent Palumbo, what did he do?

6 A He remained in the vehicle.

7 Q When you got to Apartment 5A, can you tell us what
8 happened?

9 A Knocked on the door, and the door was opened and
10 we gained entrance in the apartment.

11 Q Who was there?

12 A A female individual introduced herself as Millie.

13 Q Would you look around the courtroom and see if you
14 see this person who introduced herself as Millie in the
15 courtroom today?

16 A Yes.

17 Q Could you point her out for the Court and jury?

18 A The individual sitting at the end of the table.

19 MS. GOLD: May the record reflect that the witness
20 has identified the defendant Millicent Jones.

21 THE COURT: Yes.

22 Q Can you tell us what occurred in the apartment?

23 A I sat down in the kitchen and I spoke to defendant
24 Jones about narcotics.

25 Q Can you tell us what the conversation was?

cbwc 4

Franciosa - direct

1 A I was introduced as a buyer of narcotics from
2 Toledo, Ohio, and I spoke to Jones and said I was interested
3 in an eighth kilogram of heroin, and the purchase price as
4 originally told me -- the original price was \$5,500 for an
5 eighth. There was some confusion as to the price. Defendant
6 Jones thought I wanted an eighth of cocaine, which she said
7 cost \$5,500, but an eighth --
8

9 MR. JOY: I am going to object to what the defendant
10 thought.

11 THE COURT: Are you telling us what the defendant
12 thought or said to you?

13 THE WITNESS: Defendant Jones told me that an
14 eighth of cocaine would cost \$5,500 and an eighth of heroin
15 would cost \$7,000. She had quoted the price of \$5,500,
16 assuming that I wanted cocaine. But I explained to her that
17 I wanted heroin, and she said the price was \$7,000.

18 Q What other conversation was there?*

19 A Defendant Jones told me that her connection, Elaine,
20 a woman by the name of Elaine, would be arriving momentarily
21 and we would discuss the situation further.

22 Q What happened after that?

23 A There was a knock at the door, and defendant Jones
24 went to the door and maybe five minutes thereafter a female
25 individual came in and introduced her as Elaine with defendant

Jones.

Q Where were you in the apartment at that time?

A In the kitchen.

Q Can you look around the courtroom and see if you see the person who introduced herself to you as Elaine, in the courtroom today?

A Yes, I can.

Q Can you point her out to the Court and jury?

A The female on my left side of the table.

MS. GOLD: May the record reflect that the witness has identified the defendant Elaine Hammond.

MR. BROWN: No objection.

THE COURT: Yes.

Q Can you tell us what the conversation was at that time?

A I sat down. We went into the living room. I saw down -- myself, defendant Jones, and defendant Hammond -- and we spoke about heroin.

Q Can you tell us what the conversation was, as best you can recall it at that time?

A I told defendant Hammond that I was interested in purchasing an eighth kilogram of heroin and that I did business out of Toledo, and I would be interested in more heroin, and that if the quality was good. I discussed the

1 cbwc 6

Franciosa - direct

2 price with her, saying I thought the price was \$5,500 for
3 an eighth kilogram of heroin, and she said no, the price was
4 \$5,500 for an eighth kilogram of cocaine if I was interested
5 in cocaine. If I was interested in the heroin, it would be
6 \$7,000.

7 So I said to her, "Well, I would be interested in
8 that \$7,000." She said that I would have to give her the
9 money, I would have to front the money to her before I would
10 get the heroin, and that she would go downstairs and meet
11 her husband who was downstairs with the package, and that she
12 would bring the package up to me, but I would have to give
13 her the money before I could see the product, namely, the
14 heroin.

15 So I said, "You can't expect me to put out \$7,000
16 without seeing what I was paying." And she said to me that
17 that's the way the deal would have to be done.

18 So I asked her, Well, what's the quality of heroin.
19 She said that it was good Asian white heroin and not brown
20 and that it would take a 5 cut.

21 So I told her that I really, you know, that the
22 money was mine, but I also had other people involved and I
23 had to talk to them before letting the money go without
24 seeing the product. And I tried to entice her to get her
25 husband to talk to me, and she said she would try to do that,

1 cbwc 7

Franciosa - direct

2 and she left the apartment.

3 Q You say that the defendant's heroin would take a
4 5 cut. Can you, in your experience as a narcotic agent,
5 explain to the Court and jury what a 5 cut is?

6 A Usually heroin in its pure form -- when you cut
7 heroin, you cut it to street level, and heroin in its pure
8 form usually takes an 8 or 9 cut. You would take one part
9 of pure heroin and mix it with 8 parts of dilutant, and you
10 get street heroin, what an addict would use. In this
11 instance you would have a 5 cut, which means 5 parts diluents
12 to 1 part heroin. So if you bought the one eighth you would
13 make 5 eighths out of it and make more money.

14 MR. JOY: I am going to object to that, to the
15 amount of money that can be made. He was asked about how
16 it was diluted.

17 THE COURT: All right. Limit it to what is meant
18 by the cutting of heroin.

19 Q You also said that the defendant Hammond referred
20 to the heroin as Asian white and not brown. Can you explain
21 what the distinction is there?

22 A White heroin is more popular than brown. It can
23 be snorted, whereas brown cannot.

24 MR. BROWN: Your Honor, I am going to object to the
25 conclusion "more popular."

Q I believe, Agent Franciosa, you were about to relate to us a conversation that you had on the telephone.

Could you proceed to do that?

A Yes. I spoke on the phone with a male individual and I told him what I was interested in, I was interested in the eighth of heroin. However, I would either want to meet him first or see a piece of the product before I fronted any money for it.

The individual was sympathetic with me saying that he understood but he said the only way we do business is if I fronted the money either to Elaine or to Millie and if I didn't trust Elaine then I certainly would be able to trust Millie because my people took me to Millie.

He said if I didn't front the money there wouldn't be any narcotics, so I told him that I would get in touch with my people and I would get back to Millie.

I get in touch with my people about fronting the money and I would get back to Millie. And the conversation terminated.

Q Did you have any other telephone conversations while you were in the defendant Jones' apartment that evening?

A Later on that evening, yes.

Q Could you tell us what happened?

Q Directing your attention to the 15th of April this year, were you also working on that date?

A Yes, I was.

Q Can you tell us what happened at around 10:30 that evening?

A I went back to Apartment 5A at 1372 Washington Avenue and I spoke with the defendant Jones.

Q Can you tell us what the conversation was at that time?

A Defendant Jones told me that the package was on the way to the apartment, the package meaning the eighth of heroin and did I have my money together?

Q Incidentally, how did you get to the defendant Jones' apartment on that evening?

A I was driven there by Agent Robert Palumbo.

Q Where was Agent Palumbo at this time?

A He remained in the vehicle which was parked in the street just opposite 1372 Washington Avenue.

Q Can you tell us what happened after this conversation with defendant Jones?

A Defendant Jones placed a phone call shortly after my arrival and after she terminated the conversation she told me that she spoke to Elaine but that the male individual I had spoken to the night before was not at

2 home but that he would call back and I was to wait.

3 During that waiting period, Agent Palumbo was
4 invited to the apartment. I went downstairs to the vehi-
5 cle and got Agent Palumbo and brought him back up to the
6 apartment.

7 Q How did that come about? Can you tell us?

8 A There was some conversation between myself and
9 defendant Jones. Agent Palumbo had brought me to 1372
10 Washington Avenue the night before and had waited approxi-
11 mately three to four hours for me downstairs and there was
12 a conversation about getting annoyed at the waiting time
13 and she said it would be all right for him to come up to
14 the apartment, so I went downstairs and he came back up-
15 stairs with me.

16 We were both in the apartment and the phone
17 rang and defendant Jones answered it and she then handed
18 me the phone saying that it was the male individual who
19 I spoke to the night before and he wanted to talk to me.

20 I spoke to the individual and he said, "Do
21 you have everything together?", talking about the money.
22 And I said yes, and he told me to have it counted in
23 front of Millie. I then asked Agent Palumbo who had the
24 money to count it out in front of Millie. He counted the
25 money and it was only \$2900.

So I told him that we only have \$2900. He says, "Well, where is the 7,000?". I said, "I only brought 2900 up to buy one ounce," namely one ounce of heroin, "rather than front the money for the whole eighth."

Then he told me that he was bringing the package upstairs why didn't I have the whole \$7,000? So I said well, I thought our conversation on the night before was that I would do one ounce or a little better than an ounce instead of the whole eighth for the 7,000.

So he got annoyed and said it was too much conversation that unless I got the 7,000 together and gave it to Millie, there wouldn't be any deal, and he hung up the phone.

Q Tell us approximately what time that telephone call was.

A That was late in the evening, very late in the evening on the 15th.

Q What happened after the telephone conversation?

A I spoke to the defendant Jones again and I said well, I am going to go out and try to raise the rest of the money and put the 7,000 together and I will be back in touch with you, and I left the apartment with Agent Palumbo.

Q Then what happened?

1 A I called defendant Jones from a pay booth in
2 the Bronx and related to her that I didn't have the rest
3 of the money together and that instead of doing an ounce,
4 could we just do a sample, real small amount, just show
5 me that the people had the heroin and then I would front
6 the whole 7,000 to her to get the package for me, and she
7 said well, you know, they are really good people and they
8 have the stuff and believe me they have the stuff and they
9 have my five children at the apartment and you could wait
10 at the apartment with my children while I am gone with
11 the \$7,000 if you really don't trust me.
12

13 So I said well why don't you talk to him and
14 just tell him to get me a sample even if it cost me a
15 hundred dollars I will give you the hundred dollars for
16 the sample. So she says okay I will talk to him again
17 and I gave her the phone number of the booth that I was at,
18 and about an hour later she called back.

19 She said she'd spoken to the male individual
20 and this time he was completely annoyed he said he doesn't
21 want to have any more conversations. He said the next
22 conversation that we have is that I have the \$7,000, that
23 I am going to give it to Millie and Millie will get the
24 package.

25 So I told Millie I was returning back to Toledo

So I told her if she could do something like two ounces, a half an eighth, and she said maybe they could do it, maybe not, she didn't know. Based on the last conversation I had with the male individual he wasn't going to do any less. I was trying to get her to talk to him to do a little less.

Then I tried to ascertain what was the most they could do after we did the first package, and we brought out that they could do a kilo or better at a time of heroin.

So I left the conversation off there. I was re-turning to Toledo and that I would be in touch as to whether I would front the money or not and the conversation terminated.

Q Can you tell the Court and jury what you did immediately before you placed that telephone call?

A I placed a telephone recording device on the telephone I used.

MS. GOLD: Could we mark this as Government's Exhibit 1 for identification.

(Government's Exhibit 1 marked for identification.)

Q Agent Franciosa, I show you what has been marked Government's Exhibit 1 for identification, and ask you if you can identify it?

A Yes, I can.

1 Q After this telephone conversation, Agent Franciosa,
2
3 did you subsequently contact the defendant Jones again?

4 A Yes, I did.

5 Q When did you next contact the defendant Jones?

6 A I contacted her on April 26.

7 Q How did you contact her?

8 A By telephone.

9 Q Can you tell us what the conversation was at that
10 time?

11 A I related to the defendant Jones that I was
12 willing to front the full \$7,000 to her to get the package,
13 and that I would be in from Toledo the following day on the
14 27th.

15 Q Directing your attention to the following day,
16 the 27th of April, can you tell us what happened on that date?

17 A On April 27 I checked into two rooms at Holiday
18 Inn at LaGuardia Airport.

19 Q What did you do?

20 A I checked into two rooms on the seventh floor, I
21 believe it was. One room was used by other agents of the
22 Drug Enforcement Administration who wired the room that I was
23 in, the telephone and the room.

24 Q Did you subsequently place any telephone calls?

25 A Yes, I did.

2 THE COURT: What date was that again?

3 THE WITNESS: April 27th.

4 Q Can you tell us, Agent Franciosa, what you
5 did after you had those two telephone conversations?

6 A I wired Agent Palumbo with a concealed
7 transmitter which was concealed under his shirt and my-
8 self, and Agent Palumbo left the Holiday Inn and rented a
9 car from Avis. The car was then wired up also with a
10 transmitter.

11 Myself and Agent Palumbo proceeded to 1372
12 Washington Avenue.

13 Q Can you tell us what happened when you
14 arrived?

15 A Parked the vehicle opposite 1372 Washington
16 Avenue and proceeded to Apartment 5A with Agent Palumbo.

17 Q Who was there when you arrived at Apartment 5A?

18 A Defendant Jones.

19 Q Can you tell us what transpired at that time?

20 A Myself and Agent Palumbo went into the
21 apartment and we sat down in the living room and I had a
22 conversation with defendant Jones.

23 Q Can you tell us what the conversation was?

24 A Defendant Jones says that she would call her
25 people. She got up and dialed a number and spoke to someone

1 on the phone and she terminated the call and said that she'd
2 spoken to Elaine, that the individual wasn't there and that
3 we should wait and he would call back.
4

5 Q What else occurred?

6 A While we were waiting for the phone call,
7 Agent Palumbo counted out the money, the \$7,000 in front
8 of the defendant Jones and defendant Jones then counted
9 the money and took it from Agent Palumbo.

10 Q Then what happened?

11 A A phone call was received by defendant Jones.
12 She had a short conversation and then gave the phone to me
13 and I spoke to the male individual I had spoken to on the
14 prior occasions, on the 14th, and the 15th.

15 The male individual asked me if everything was
16 all right, if I had my money together, I said yes, I had
17 given it to the defendant Jones and that she was holding
18 it and he told me that he was going to get the package and
19 that he would get in touch with us at the apartment that we
20 should sit tight.

21 He a into being sorry about not coming
22 to meet me on the first deal but that once we did the first
23 deal, he would either come out to Toledo or he would meet
24 me somewhere in the Bronx and he still didn't trust me,
25 you know, he told me he didn't trust me, but that he was

1 hbklm 4

Franciosa - direct

2 doing the deal on the word of defendant Jones and defen-
3 dant Hammond. He really didn't want to do it.

4 MR. JOY: Could we get whether this was a
5 statement that was being said?

6 THE COURT: Just a conclusion, yes. Tell us
7 what he said.

8 THE WITNESS: That was what he said. That is
9 what he said, he was doing the deal because of defendant
10 Jones and defendant Hammond, that he didn't really want
11 to do the deal, he didn't trust me and he went a little
12 further saying that he wasn't going to rip me off for the
13 money and that I should not hurt defendant Jones' children.
14 I assured him that I wouldn't and he asked me to give the
15 phone back to defendant Jones who then had a short conver-
16 sation and terminated the call.

17 Q What happened after this telephone conversa-
18 tion?

19 A Defendant Jones said to me that she wanted to
20 know why he mentioned her children, why I mentioned the
21 children on the phone and I said that the male individual
22 I spoke to, Elain's husband was worried about her children
23 that I should not harm them, and I assured her that I
24 wouldn't whether she took the money or not.

25 I was more interested in holding a car. She

1 hbklm 5

Franciosa - direct

2 had a vehicle. Myself and Agent Palumbo attempted to get
3 her to use the rented vehicle that we had rented from
4 Avis but she insisted on using her own vehicle.

5 He said that he didn't really trust me, that
6 he was going on the defendant Jones' and defendant Hammond's
7 word that I was all right and I suggested that she call
8 Elaine and I speak to Elaine on the phone to try to assure
9 her.

10 And she called Elaine and I spoke to Elaine
11 on the phone and we had a short conversation.

12 Q Did you see what number she dialed at that
13 time?

14 A I didn't see the whole number, I just saw part
15 of it, the first three digits.

16 Q What digits were those?

17 A 655.

18 Q What happened then?

19 A I spoke to Elaine and I had a short conversa-
20 tion regarding that she trusted me and I trusted them and
21 this is why I was fronting the money. Then we had a con-
22 versation about how long Elaine and Millie knew each other;
23 Millie, defendant Jones, told me she knew Elaine for 13
24 years, that Elaine turned her on to a lot of ways of making
25 money, that Elaine taught her how to work the table and how

1 to wrap and that Elaine could cut three kilos of heroin
2 a day. This is how she met this individual that was her
3 husband.
4

5 Q You say she used the term "wrap".

6 Is that a term used in narcotics traffic?

7 A Yes, it is.

8 Q Could you explain what this term means to the
9 Court and jury?

10 A To wrap it for street sales. Wrap the nickel
11 bag, what a heroin addict would use. In other words,
12 taking heroin and making it for street use and then wrapping
13 it in silver foil or paper or whatever have you. It is
14 one grain of heroin.

15 Q You also used the phrase "work the tables".

16 Is that also something which is special in
17 narcotics trafficking language?

18 A Yes, it is.

19 Q Could you explain to the Court and jury what
20 that phrase means?

21 A To work the table, the table consists of a
22 glass table where the heroin is put with the dilutant. That
23 is where it is mixed, on the glass table.
24
25

1 hbklm 7 Franciosa - direct

2 Q Can you tell us what happened after that?

3 A Defendant Jones received a phone call at the

4 apartment.

5 Q What happened then?

6 A She spoke to someone on the phone and she then

7 hung the phone up and said it was Elaine's husband and that

8 he was downstairs and wanted to see the money and that she

9 was going to go downstairs and show it to him and she asked

10 me if it was all right if she took one of her children

11 with her so I wouldn't be suspicious. I said it was all

12 right.

13 She then left the apartment with the child.

14 Q What happened after that? Could you please

15 keep your voice up because I can hardly hear you and each

16 of the jurors has to hear you all the way down to the

17 very end.

18 A Could you repeat the last question?

19 Q After the conversation with the defendant

20 Jones, what happened next?

21 A She left the apartment with the child.

22 Q And then what happened?

23 A She returned about, I would say, ten, fifteen

24 minutes later with the child.

25 Q Can you tell us what the conversation was at

that time?

A Defendant Jones told me that she met Elaine's husband downstairs, he saw the money, said that he couldn't get the heroin yet, that the stash pad was hot and that he was returning to it to get the heroin and that I should remain in the apartment and that he would call within an hour and let us know if he had the heroin.

Meanwhile, defendant Jones did not give the individual the money, that she retained the money but he specifically told her that you hold on to the money, not to give it back to me.

Q What else happened on that afternoon?

A Defendant Jones received another phone call. She had a short conversation on the phone and when she hung up the phone, she said to me that it was the male individual and that he was very upset. He said he was followed and that the police were on to him and that he was blaming her for setting him up with the police and that he was going to kill her and she then gave me back the money and told me leave the apartment and that she would see him personally and try to straighten out whatever the problem was.

She couldn't understand how he could think that she would set him up after knowing his wife Elaine for

1 hbwc 10

Franciosa - direct

2 related?

3 A He stepped out on one or two occasions.

4 Q After this telephone conversation with the
5 defendant Jones, what did you do?

6 A That same day?

7 Q That same day -- if anything.

8 A We terminated the operation.

9 MS. GOLD: Could we have this marked
10 Government's Exhibit 5 for identification, please?

11 (Government's Exhibit 5 marked for identifi-
12 cation.)

13 Q Agent Franciosa, I show you what has been
14 marked Government's Exhibit 5 for identification and ask
15 you if you can identify it.

16 A Yes, I can.

17 Q Can you tell the Court and jury what it is?

18 A It is the original tape recording of the kel
19 transmitter used by Agent Palumbo.

20 Q You had occasion to listen to that tape
21 recording?

22 A Yes, I have.

23 Q Does it accurately reflect what transpired
24 on that date?

25 A Yes, it did.

xxx

2 A No.

3 Q Did you participate in a search?

4 A No.

5 Q When you entered the apartment, Officer, isn't
6 that when you found -- or this house -- Government's Exhibit
7 8?

8 A What are we talking about? What period of time?

9 Q About 5:30, 6 o'clock.

10 A No.

11 Q Shortly thereafter?

12 A No.

13 Q When in fact did you discover this?

14 A On my second visit.

15 Q Excuse me?

16 A On my second visit.

17 Q What time was that?

18 A ARound midnight.

19 Q Officer, would you tell us where you discovered
20 this?

21 A It was in a hiding place.

22 Q Where was this hiding place?

23 A Master bedroom.

24 Q Excuse me?

25 A Master bedroom.

2 Q Officer, in this hiding place within this
3 closet, were there any women's apparel?

4 A In the hiding place? No.

5 Q In this hiding place I take it the only apparel
6 that was there was men's; isn't that correct?

7 A There may have been several women's overcoats,
8 but --

9 Q In the hiding place?

10 A Yes. You know, it could have been a male or
11 female with the fur collars. Unisex type of coats.

12 Q Officer, by the way, do you know how many people
13 live in that house?

14 A No.

15 Q Excuse me?

16 A No.

17 Q After you made this discovery, this is about
18 midnight; is that correct?

19 A Midnight, 1 o'clock.

20 Q Was Mrs. Hammond in the house when you made the
21 discovery?

22 A No, she was not.

23 Q Who was in fact in the house when you made that
24 discovery?

25 A I think her son. I would say her son Robert
Hammond, and there was another, I think a younger boy also her

son.

Q By the way, Officer, when you went with your fellow agents to DeReimer Street, approximately how many agents were there?

A About a dozen.

Q Officer, by the way, the investigation and the surveillance and the events that led up to the arrest of defendant Jones and defendant Hammond, is your file number CI770102?

A I have to look at the report. I don't know what case number it is.

Q I show you this report to refresh your recollection.

MS. GOLD: Objection, Judge. I don't see the relevance.

MR. BROWN: Your Honor, I will get to it, if I may.

THE COURT: All right.

A Yes, CI770102.

Q And the title of this investigation was called Millicent Jones, wasn't it?

A If you are reading off the report -- yes, it is file title Millicent Jones.

Q Even though at that point you had another suspect

2 A Yes, I was.

3 Q Can you tell the Court and jury where you were
4 at around 7 o'clock on that date in the evening?

5 A That particular day I was assigned as an under-
6 cover agent for the purpose of purchasing an eighth of a
7 kilogram of heroin from Millicent Jones at 7 o'clock that
8 evening.

9 I met Agent Franciosa and an informant at the
10 vicinity of Washington Avenue and Clermont Parkway in the
11 Bronx.

12 Q What did you do at that time?

13 A We proceeded in one vehicle, the three of us, to
14 1372 Washington Avenue. I parked the vehicle out in front
15 and Agent Franciosa and the informant exited the vehicle and
16 went into 1372 Washington Avenue. I stayed in the vehicle.

17 Q What happened after that?

18 A Well, at approximately 7:30 or 7:40 I observed
19 a vehicle, a yellow Ford with a rented license plate, a Z
20 plate, pull in front of my vehicle and double-park. I
21 observed the female exit the vehicle and proceed into 1372
22 Washington Avenue.

23 Q What was the next observation you made after that?

24 A About twenty minutes later, give or take five minutes
25 I observed the same female in front of my vehicle, and she

1 was in conversation with a black individual, a male. They
2 had a conversation for about five minutes. The male then
3 walked past my vehicle to the rear, stood there for a
4 moment, glanced at me, and then turned around, walked back
5 to the female, and they both proceeded south on foot on
6 Washington Avenue out of my sight.
7

8 Q Agent Palombo, can you look around the courtroom
9 and tell the Court and jury if you see the woman who you saw
10 going in and coming out, having the conversation, in the
11 courtroom today?

12 A Yes, I do.

13 Q Could you --

14 A She is seated at the defense table on my left on
15 the end of the table.

16 MS. GOLD: May the record reflect that the
17 witness has identified the defendant Hammond.

18 THE COURT: Yes.

19 Q Can you tell us what happened after that?

20 A At approximately 9 o'clock Agent Franciosa and
21 the informant came downstairs, they entered my vehicle, and
22 we drove off out of the area. We then had a conversation
23 with our group supervisor regarding what had taken place
24 in the apartment.

25 Q After that conversation what did you do?

MR. BROWN: Your Honor, if the Government is going to enter one lease, I would like them to enter all three leases that they took from this defendant, eventually took from this defendant. There are two other leases, your Honor, which I think are material to this case in this defendant's name. This is in the name of Hobson, the other two leases removed from this defendant were in her own name.

MS. GOLD: Judge, these are the premises. This is the lease for the premises whether the defendant was arrested and where she was seen coming and going.

THE COURT: You could put the other leases in your case. Isn't that so?

MR. BROWN: Yes, your Honor.

THE COURT: All right. Let's proceed.

(In open court.)

MS. GOLD: The government renews its offer of Government's Exhibit 3 for identification into evidence at this time.

THE COURT: Received.

(Government's Exhibit 3 received in evidence.)

Q Agent Greenan, I show you what has been marked
Government's Exhibit 7-A for identification and ask you

2 whether you can identify that?

3 A This is a lease for 3528 Dormeimer Avenue
4 and a receipt for \$2,400 as an option to buy.

5 Q Have you seen that document before?

6 A Yes.

7 Q Where was that?

8 A This was in the Defendant Hammond's pocketbook.

9 MR. GOLD: Your Honor, the government offers
10 Government's Exhibit 7-A for identification into evidence
11 at this time.

12 MR. BROWN: No further objections except
13 the ones I have already stated.

14 THE COURT: All right, let it be received.

15 (Government's Exhibit 7-A received in
16 evidence.)

17 MS. GOLD: Could we have this marked
18 Government's Exhibit 4-B for identification.

19 (Government's Exhibit 4-B marked for
20 identification.)

21 Q Agent Greenan, I show you Government's
22 Exhibit 4-A in evidence and Government's Exhibit 4-B
23 for identification and ask you if you can identify
24 those documents.

25 A 4-A is a picture of the open trap door which

2 was built into the closet in the master bedroom at 3528
3 Doreimer Avenue and 4-A is a picture of the trap door
4 open and 4-B would be the picture as you would look
5 at it when the trap door was closed.

6 MS. GOLD: Your Honor, at this time the
7 government offers Government's Exhibit 4-B for
8 identification into evidence.

9 MR. JOY: No objection, your Honor.

10 MR. BROWN: Other than the one that we have
11 already gone into.

12 (Government's Exhibit 4-B received in
13 evidence.)

xx

14 Q Agent Greenan, did you see anything removed
15 from that trap which is reflected in Government's Exhibit
16 4-A and 4-B?

17 A Yes.

18 Q Could you tell us what that was?

19 A There was a small piackage of white powder.
20 Do you want me to continue?

21 Q Yes.

22 A There was a set of mixing spoons, a couple
23 of boxes of glassine envelopes which would be a couple of
24 thousand glassine envelopes.

25 Q Incidentally, can you tell us approximately

1 hpj1 3

Lurie-direct

2 THE COURT: Let's hear the question, Mr. Reporter.

3 (Question read.)

4 THE COURT: You want him to tell you what the
5 uses are, to his knowledge?

6 MR. JOY: Yes, your Honor.

7 A In my capacity of analyzing evidence that is
8 submitted to the laboratory from agents, quinine has been
9 used as a cutting agent in heroin exhibits. It is also
10 found--this is in a rare instance--as a cutting agent in
11 amphetamine and also a cutting agent in cocaine.

12 Q Is it, in your experience, a common cutting
13 agent for heroine?

14 A Yes, it is.

15 Q And you know, as a chemist, that there are other
16 uses for quinine; is that correct?

17 A Yes, that is correct.

18 MS. GOLD: Your Honor, we would offer at this
19 time Government Exhibit 8 for identification into evidence.

20 MR. JOY: I have no objection.

21 (Government's Exhibit 8 was received in evidence.)

22 THE COURT: Do you have any objection, Mr. Brown?

23 MR. BROWN: No, your Honor.

24 BY MS. GOLD:

25 Q Government Exhibit 8 contains a bottle and some

1 hpj1 8 Dixon-direct

2 Q When did that occur, approximately?

3 A It was in February, I think.

4 Q What is the date of the beginning of the lease?

5 A It say here the 15th day of February.

6 Q Of this year?

7 A 1977.

8 Q Would you say it is a short time before that?

9 A Yes, it could be, yes.

10 Q What is the name of the person who leased the

11 premises?

12 A It says here Ronald and Elaine Hubson.

13 Q You showed the premises to Elaine Hubson?

14 A Yes.

15 Q Could you look around the courtroom and tell us

16 if you see her here today?

17 A Yes. (Indicating.)

18 MS. GOLD: May the record reflect the witness

19 has identified the defendant Elaine Hammond.

20 THE COURT: Yes.

21 Q Did you have occasion to see her more than once?

22 A Yes, she came to the office to pay rent.

23 Q Did you also show her another premises before

24 these premises were leased?

25 A No. There was only--before, I showed her two

12 hpsr

was being followed somewhere between Washington Avenue and DeReimer Avenue. He tried to warn the driver of the yellow car. When that failed, he took off as Agent Greenan testified, but he was stopped by the agents.

Thereafter, we submit, neither car was safe to use in any further narcotics transactions nor was the name Trumpler which incidentally is removed from the rental agreement of the returned car.

What do we have in its place? Well, we learn in its place is the name Yolanda Williams and not coincidentally the driver's license for Yolanda Williams is found in the defendant Hammond's pocketbook at the time of her arrest.

At around 10:30 on the next evening, April 15th, Agent Franciosa returns to the defendant Jones' apartment on Washington Avenue and Jones tells Agent Franciosa that the package will be delivered. She makes a telephone call and she tells Agent Franciosa that it is the defendant Hammond who says that her husband is not home but would call when he got home.

Now, we know from Agent Joura who testified today that the man was not home at that time because he told you that on the 15th of April he was on surveillance in the evening at the area 3528 DeReimer Avenue. and what

1 20 hpsr

2 the fugitive. They don't find him. Having done that,
3 ladies and gentlemen, we submit there is no possibility
4 of any continued undercover narcotics investigation
5 with the defendant Hammond and they arrest her at that
6 time.

7 What do we find in the house which the
8 defendant Hammond we submit tries to conceal as her
9 residence. Among other things we find Government
10 Exhibit 8, which we know to be a common cutting agents
11 and they also find among other things boxes of glassine
12 envelopes and measuring spoons, items which we submit
13 to you are the paraphernalia for the wrapping, cutting
14 and spooning of the heroin which the defendants conspire
15 to sell. Incidentally, on cross-examination of
16 Agent Greenan and of Mr. Lurie, the chemist, the
17 defendants have attempted to show him the white powder
18 and measuring spoons of common uses.

19 Ladies and gentlemen, we submit to you,
20 would you keep medicine and common measuring spoons from
21 a kitchen inside a trapped door concealed upstairs
22 in your house in a closet? Take a look at the trap.
23 There are photographs of the trap and they are Govern-
24 ment Exhibits 4A and B in evidence. We submit, ladies
25 and gentlemen, you may find these items were the para-

21 hpsr

phernalia for the wrapping and spooning and cutting of the heroin.

Of course we know that the defendant Elaine Hammond lived at 3528 DeReimer Avenue despite we submit was the obvious attempt to conceal that fact. The agents told us and Mr. Dixon told us. He came here and brought us the original lease, the copy of which Agent Greenan testified he took from the defendant Hammond's pocketbook and you can look at the two leases, the one Mr. Dixon brought, and the copy taken out of defendant Hammond's pocketbook, Government Exhibits 7A and 7B. Mr. Dixon also told us he gave the defendant Hammond the keys after she had rented the premises and he had shown her in fact the premises.

You will recall, ladies and gentlemen, the defense tried to show maybe defendant Hammond didn't actually sign the lease. Why? Because they can't live with that proof. The defendant Hammond lived where Agent Greenan had traced the car back as far as April 14th, at an address of 3528 DeReimer Avenue. At the very first night of negotiations he had no idea who lived in that building.

I told you, ladies and gentlemen, I would submit for your consideration pieces of evidence which

31 hpsr

of 1977 that her name was Elaine Hobson? The lease at 3528 DeReimer Avenue, ladies and gentlemen, that is; the defendant Hammond's pocketbook and the original Mr. Dixon brought with him. There were two other leases outstanding. Did she live in three apartments or as we submit to you was there the house which she had under a false name to use in the narcotics trafficking?

And the telephone connected at the DeReimer Avenue address. What is the name there. Lorraine Edwards. The driver's license: Yolanda Williams.

Did the defendant Hammond in early April of 1977 begin a plot, conspiracy to rip off these agents, the agents she didn't know or was she as the grand jury charged engaged in an ongoing conspiracy to sell heroin?

Ladies and gentlemen, what did the agents find inside the house? They found the trap door in the bedroom closet at DeReimer Avenue and the white powder which Mr. Lowry told us about and glassine envelopes and measuring spoons. Was this part of the conspiracy to steal \$7,000 from the agents, concealed in the trap door of the closet? We submit, ladies and gentlemen, it defies all logic and belief.

Ladies and gentlemen, these are just some of the pieces of evidence which I suggest to you,

40 hpsr

listen to Mr. Joy and Mr. Brown and you keep in mind the overwhelming evidence in this case of the guilt of both of these defendants and the evidence which I outlined to you which precludes the two defenses suggested in this case.

Thank you.

THE COURT: Thank you, Miss Gold. Mr. Joy.

MR. JOY: Judge Motley, Miss Gold, ladies and gentlemen of the jury. As I told you earlier, you have seen I represent Millicent Jones and my remarks are with respect to her.

Now, the government as you have heard has got to prove, in order for you to find Millicent Jones guilty that beyond a reasonable doubt she conspired to sell, possess and what not narcotics, namely, heroin. And the government also has the burden of proving that she didn't have any other intent, in other words, that it wasn't a conspiracy to defraud the government or to use the vernacular to rip-off the agents. I suspect that is why Miss Gold has spent as much time as she has in summation on that particular point.

Now, this is a decision that each and every one of you is going to have to make for his and herself. You are going to have to determine whether the government

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Greenan - direct

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2 not being relevant to my client.

3 MS. GOLD: Judge --

4 THE COURT: I think it is. Overruled.

5 Q Can you tell us how that came about?

6 A Yes. We received information from two informants
7 concerning the narcotics trafficking activities of Milli-
8 cent Jones and a black female by the name of Elaine. We
9 attempted an undercover introduction with Agent Franciosa
10 on the 14th and 15th of April and also on the 27th of
11 April.

12 After the meet on the 15th of April, we did
13 some file checks after we followed suspects to an address
14 in the Bronx, 3528 Doreimer Avenue.

15 After making a number of checks at that
16 address, we discovered the Con Ed was in the name of Ronald
17 Hobson. We conducted some file checks at my headquarters
18 and we discovered Ronald Hobson was an associate of Basil
19 Hansen, who was an escaped federal prisoner. He was also
20 wanted for murder in the Bronx.

21 Q Did there come a time during your investigation
22 of the narcotics case that you learned of Basil Hansen's
23 participation?

24 A Yes, that's correct. He was observed on a
25 meeting that occurred on the 14th with the undercover

agent. He was observed on the street. He was also observed on the evening, the late evening, of the 15th, and he was also observed on the 27th of April.

And on May 3rd he was also observed entering 3528 Doreimer Avenue.

Q Before you get to that, when this man was observed on the 14th of April, with whom was he observed?

A The defendant Elaine Hammond.

Q At that time, did anyone, of the agents involved in that case, know who he was?

A Not at that time.

Q When was the next time this same man was seen by the agents on your investigation?

A He was seen on the evening of the 15th, he was seen on April 27th.

Q And are those dates on which negotiations in connection with the narcotics investigation concerning Elaine Hammond and Millicent Jones were being conducted?

A Yes, that's correct.

MS. GOLD: Your Honor, at this time there is an exhibit I would like to introduce, if you would give me a moment to find it.

THE COURT: Yes.

(Pause)

MS. GOLD: Your Honor, I'll reserve on introducing certain exhibits. I haven't got them handy.

Q Was there ever a time during this investigation when a photograph was obtained of Basil Hansen?

A Yes, that's correct.

Q Can you tell us the circumstances of the obtaining of that photograph?

A After we conducted file checks at the Region, we interviewed a case agent, John Nolan, who was familiar with Basil Hansen. He handled the investigation. And from Mr. Nolan we obtained the picture of Elaine Hammond and we obtained a picture of the fugitive Basil Hansen.

Q Were there any other photographs, surveillance photographs, involving Mr. Hansen while you were conducting the narcotics investigation?

MR. BROWN: Your Honor, may I interrupt for a moment? I seem to be confused.

Is this Eli Hammond or Eli Hansen?

THE WITNESS: Elaine Hammond.

MR. BROWN: I'm talking about the male.

THE WITNESS: Basil Hansen.

MR. BROWN: Hansen. Thank you. The names sound somewhat alike, but they are different.

Q Directing your attention to April 27th, were

there surveillance agency at 3528 Doreimer Avenue?

A Yes, that's correct. On the last day that Agent Franciosa negotiated with Millicent Jones, a surveillance was conducted of 3528 Doreimer Avenue and a photo taken of persons leaving that address was made by Agent Williams, and one of the photographs was of the male Basil Hansen.

Q Leaving the address at Doreimer Avenue?

A That's correct.

THE COURT: This Doreimer Avenue, is that the apartment of the defendant Hammond?

THE WITNESS: It is the rented home of the defendant Hammond.

THE COURT: All right.

Q How did you first learn about the Doreimer Avenue address?

A On the evening of the 14th, when Agent Franciosa and the informant went up to Millicent Jones' apartment, Elaine Hammond was observed -- she was known to me as Elaine at the time -- was observed driving a rental vehicle, and she parked that vehicle on Washington Avenue.

During the negotiations another rental vehicle was observed on Washington Avenue, and when these vehicles left Washington Avenue they were surveilled by myself and

Agent Joura up to Doreimer Avenue in the Bronx. The car that was utilized by Elaine parked in front of 3528 Doreimer Avenue and a person was observed -- I observed a person leave that vehicle and go towards that entrance.

Q I direct your attention to May 3rd. Can you tell us what you were doing on that date?

A Myself and Agent Franciosa were conducting surveillance at 3528 Doreimer Avenue.

Q Can you tell us what you saw?

A The surveillance began about one in the afternoon. Sometime after that we observed Elaine Hammond and another female arrive in a 1970 blue Cadillac with Massachusetts plates. Both females then were observed entering 3528 Doreimer Avenue.

A short time after that we observed a public Yellow Taxicab pull up in front of 3528 Doreimer Avenue.

Q Excuse me for one moment. Could you identify either of the people who got out of the Massachusetts car?

A Yes. I identified the passenger as Elaine, the person I observed on the evening of the 14th, and which I recognize from the photograph that I obtained from Agent Nolan as Elaine Hammond.

Q All right. Would you continue with your surveillance?

1 jg
2 A After the arrival of Elaine and the other black
3 female, I observed the arrival of a public Yellow Taxicab,
4 and a black female that I knew to be Basil Hansen exited
5 the cab and entered the address -- a male exited the cab
6 and entered the address.

7 Q What happened after that? What did you do?

8 A A short distance up Baychester Avenue, we pulled
9 the cab over to the side; we showed a picture of the fugi-
10 tive to the cab driver. He stated that that was his
11 passenger and that he had picked him up in the area of
12 Bronx Lebanon Hospital.

13 We then returned to 3528 Doreimer Avenue.

14 Q And what did you do?

15 A A short time after our arrival, the unknown
16 black female and Elaine exited the address, entered the
17 '70 blue Cadillac, and proceeded to a shopping center,
18 where I maintained surveillance of Elaine.

19 Q You followed in your car?

20 A My government vehicle, right.

21 Q What did you do after that?

22 A I returned to the vicinity of 3528 Doreimer
23 Avenue.

24 Q And what did you do when you arrived in that area?

25 A At that time I contacted the Group Supervisor and

advised him of what was going on at Doreimer Avenue. He advised that he would come up in our area with the rest of the agents in the group and contact the FBI.

Q And for what purpose was he contacting the FBI?

MR. BROWN: Objection.

THE COURT: What do you say to the objection?

MS. GOLD: I don't know what the grounds are.

MR. BROWN: Withdrawn. Objection withdrawn.

A Since he was an escaped federal prisoner, he was under the jurisdiction of the FBI.

Q And what did you do after making these calls?

A We continued surveillance of the address. We observed an older black male exit the address. He entered a 1963 Thunderbird with Massachusetts plates and he departed the area.

At about the same time the group arrived in the area, we observed two black males exit the address and enter a late model black car, and they departed the area.

And then, after that, we went to the entrance of 3528 Doreimer Avenue.

Q And what did you do?

A Myself and a couple of other agents knocked on the front door of the premises. About five minutes later the knock was answered by the defendant Elaine Hammond

from the second story window.

She asked us what we wanted. I identified myself as a federal agent, displayed my credentials, and stated we were searching for a fugitive, "Come down and open the door."

Q And what happened after that?

A She came down, opened -- she opened up the door and we entered the residence.

Q And then what was the conversation at that time?

A I asked the defendant -- I displayed a photograph of the fugitive to the defendant. She stated she didn't know who he was. And the defendant remained in the kitchen area with two other agents, and myself and other agents conducted a search of the premises.

THE COURT: Just a moment.

Read that last.

(Record read)

THE COURT: How many agents were present all told?

THE WITNESS: I think there were approximately five agents who entered the residence and there were a number of agents in the back of the house.

THE COURT: In addition?

THE WITNESS: Right, guarding the back of the

1 A For the fugitive.

2 Q And then what happened?

3 A I went down to the kitchen area again. I con-
4 fronted the defendant Elaine Hammond with the license and
5 the picture. She stated she didn't know who he was.
6

7 I then left the residence and conferred with
8 Agent Franciosa.

9 Q And thereafter?

10 A I returned to the residence with Franciosa, Agent
11 FManciosa, and in the kitchen area I placed Elaine Hammond
12 under arrest for conspiracy to violate federal narcotics
13 laws.

14 Q What else did you say to her at that time?

15 A I advised her of her Constitutional rights.

16 Q And where in the house was this?

17 A In the kitchen.

18 Q Can you tell us what you did next?

19 A On the kitchen table was a pocketbook, which was
20 open.

21 Q How far was that from the defendant Hammond?

22 A Less than two feet, a foot, two feet, right next
23 to her.

24 Q Okay. Would you continue?

25 A I asked her if that was her pocketbook. She

stated, "Who do you think it belongs to?"

And I looked in the pocketbook.

Q What were you looking for in the pocketbook?

A First for a weapon.

Q Did you find a weapon in the pocketbook?

A No, I did not.

Q Then what happened?

A I observed in the pocketbook a number of leases. I also observed a driver's license. And I left the contents in the bag itself.

Q What did you do after that?

A At that time Agent Franciosa asked the defendant Elaine Hammond to accompany him to the living room. He asked me to bring the pocketbook along, and that's when Agent Franciosa interviewed Elaine Hammond.

Q I beg your pardon?

A He interviewed Elaine Hammond.

Q Were you there?

A Yes. That's correct.

Q Could you tell us what transpired?

A He first asked her about Basil Hansen. He showed her the license that we found. He then went through the contents of the pocketbook with Elaine Hammond.

Q And what happened after that?

A We decided he had to follow the leads that were found in the pocketbook and go search for the fugitive.

THE COURT: The leads that were found in the pocketbook?

THE WITNESS: Yes, that's correct. The first thing that was found was a number of leases in various names, such as Hammond, Hobson, for different apartments in the Bronx and in Queens. And then we also found a New York State driver's license -- pardon me. There was only leases for Bronx apartments.

We found a New York State driver's license in the name of Yolanda Williams, 1345 Teller Avenue, which is also located in the Bronx.

Shortly after that, myself and other agents left the residence and went to these other addresses.

Q I show you what we can mark as Government Exhibit 1 for purposes of this hearing.

(Government Exhibit 1 marked for identification.)

THE COURT: Are you offering that exhibit?

MS. GOLD: For purposes of the hearing, your Honor.

THE COURT: All right. Is there any objection?

MR. BROWN: Not for the purposes of the hear-

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2 Q Incidentally, did the defendant Hammond remain
3 in the house or not?

4 A The defendant was transported to our regional
5 office.

6 MR. BROWN: Your Honor, I am going to object
7 to that answer as not responsive. I believe it is a yes
8 or no answer. It calls for a yes or no answer.

9 THE COURT: Well, I think the question was
10 did the defendant Hammond remain in the house, and the
11 answer was she was transported to our regional office?

12 THE WITNESS: Yes.

13 THE COURT: That is responsive. Overruled.

14 Q Did a time come thereafter when you returned to
15 the Doreimer Avenue address?

16 A Yes, that's correct.

17 Q And approximately what time was that?

18 A It was late in the evening, around 10.00 p.m.,
19 something like that.

20 Q What happened when you arrived at the area?

21 A I reentered the residence and I was informed by
22 Special Agent Jones that there were a number of activities
23 that took place while we had -- after we had left the
24 residence.

25 Q Can you explain what those activities were?

transported away from the area?

A Since we identified the fugitive in the house, we thought he would return to the residence.

THE COURT: Excuse me. Before you go on, what did you find in the residence, again? Would you repeat that testimony, before you took Miss Hammond from the residence down to the Regional Office?

THE WITNESS: There were a number of leases for apartments in the Bronx. One was a lease for 3528 Doreimer Avenue. One was a lease for 770 Garden Street. And one was a lease for 3103 Fairfield Avenue in the Bronx.

We also found that driver's license in the name of Yolanda Williams.

In the coat which the fugitive wore into the house we found a set of keys, which didn't fit any of the locks in the house, and we found a New York State driver's license in the name of Dennis Williams, and we found \$500 in cash in the fugitive's wallet, which was in that sports-coat. And this was returned to the defendant Hammond.

Q Now, when you returned to the residence and were apprised by Agents Jones and Palumbo of the events that had transpired in your absence, what happened after that?

A Myself and the other agents had a discussion with

A Entering 3528 Doreimer Avenue on May 3rd.

MS. GOLD: May we have this marked as Government Exhibit 4 for identification for purposes of this hearing?

(Government Exhibit 4 marked for identification.)

Q I show you Government Exhibit 4 for identification. Can you tell us what that is?

A This is the copy of the warrant held by United States Marshals in the Southern District for the arrest of Basil Hansen, charging him with escape from a federal detention facility. I had a copy of this warrant with me on May 3rd prior to entering 3528 Doreimer Avenue.

Q Where did you get that copy of the warrant?

A This copy which I have here now I obtained from the Marshals last evening.

Q And it is not satisfied as of this date?

A No.

Q It was not satisfied as of April 27th?

A No.

MS. GOLD: Judge, for purposes of this hearing we would offer Government Exhibits 2, 3 and 4 for identification.

THE COURT: Any objection to 2?

time and May 3rd?

A No.

Q So your time was exclusively directed and aimed at this particular case, is that correct?

A I would say most of my working hours were spent on this case.

Q And also what date was it that you entered the premises at Doreimer Avenue?

A That was on May 3rd.

Q What day of the week was that?

A I believe it was a Tuesday.

Q What time did you enter?

A Approximately 5.00 p.m.

Q Officer, before you entered, would you tell this Court how many police officers all together were assigned for backup men, so to speak, with you, all together: the primary officers, the backup men that were involved in this entrance at Doreimer Avenue, the arrest.

THE COURT: When you speak of "the arrest," of the defendant Hammond?

MR. BROWN: The hoped for arrest, or the attempted arrest, of Hansen.

A Seven to ten agents.

Q Seven to ten?

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Greenan - cross

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A Yes, sir.

Q Officer, do you recall who was the first one who entered Doreimer Avenue?

A I believe it was either myself or my supervisor.

Q Did you have your gun drawn?

A Yes, I did.

Q Do you recall who opened the door for you?

A The defendant Elaine Hammond.

Q Was it the defendant Elaine Hammond or her son who opened the door for you?

A It was the defendant Elaine Hammond.

Q The first time you saw Elaine Hammond was when she was upstairs, is that correct? She looked out the window.

A The first time I saw Elaine Hammond was on the evening of the 14th of April.

Q I'm saying at Doreimer, when you knocked on the door.

A Yes.

Q And this was on the second or third floor?

A Second floor.

Q And you waited for Miss Hammond to come downstairs.

A Yes.

Q How many had already entered at that point in time?

A I believe there were five agents who made the initial entry.

Q So that would be six with you, is that correct?

A No. Five all together.

Q Well, at that point, while you were having a discussion with Miss Hammond, the agents had already fanned out and were searching the building, the house, weren't they?

A That's correct.

Q Now, prior to your entering the house, you had a conference with your other officers, is that correct?

A That's correct.

Q And were certain officers assigned to search upstairs and certain officers assigned to search downstairs?

A Regarding the entry of the house itself, there were no specific directions.

Q Who was the person in charge of this?

A My supervisor, Gerald Hochman.

Q And at that point they were all going in and he didn't give any further directions, is that correct?

A No. He ordered two or three agents to cover

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Q And how long was she in the shopping center?

A About twenty minutes.

Q And then what did she do?

A She returned to her house.

Q And how did she return? In the same car?

A That's correct.

Q And this other female, did she enter the house with her?

A No. She left.

Q In other words, this other female dropped off Miss Hammond at the house and drove away, is that correct?

A Correct.

Q What time was this, Officer, that she entered the house?

A Around 3.30, now.

Q And you did not enter the premises at that point, did you?

A No, I did not.

Q And prior to the time you entered the premises, did anything further occur by the house?

A We arrested another fugitive who left the house.

THE COURT: Just a moment. What was the answer to that question?

(Answer read)

MR. BROWN: All right.

BY MR. BROWN:

Q And, Officer, when you entered the house, you didn't have a warrant to search this house, did you?

A No.

Q You had a warrant for an arrest, isn't that correct?

A Yes.

Q And, Officer, to your knowledge, that entire day, did you ever obtain a warrant to search?

A No.

THE COURT: Let me hear the last question and answer, please.

(Record read)

Q And, Officer, what time did Hansen enter, did you observe Hansen enter, these premises?

A This was early in the afternoon, shortly after the arrival of the defendant.

Q The defendant arrived twice. Was this the first time she arrived or the second time she arrived?

A The first time.

Q And that was approximately two o'clock, is that correct?

A Yes.

1
2 THE COURT: And you don't know who the owner
3 is?

4 THE WITNESS: No, I do not. I know the
5 owner works with this real estate company and they rent
6 the house.

7 THE COURT: The lease was from a real estate
8 company?

9 THE WITNESS: That's correct.

10 Q And, Officer, whose name was this lease in that
11 yo: found in the defendant's handbag?

12 A Who signed it?

13 Q Whose name was it in?

14 A Well, I mean it is the defendant's false name.
15 Is that the one you want?

16 MR. BROWN: Objection, your Honor.

17 THE COURT: The question is, what name was it
18 in?

19 THE WITNESS: It was in the name of Ronald
20 and Elaine Hobson.

21 THE COURT: Elaine who?

22 THE WITNESS: Hobson, H-o-b-s-o-n.

23 Q Do you know who lived there?

24 A The defendant.

25 Q Do you know if anybody else lived there?

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